

MEMORANDUM

TO: Enron Files

FROM: Reed M. Brodsky

DATE: December 2, 2001 (revised December 3-4, 6-7, 2001)

RE: Interview of Richard Causey

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On November 30, 2001, Joe Brenner and Reed Brodsky of Wilmer, Cutler & Pickering ("WCP") and John Sullivan of Deloitte & Touche (an accounting firm retained by WCP), spoke with Richard Causey, Enron's Executive Vice-President and Chief Accounting Officer, at Enron's Houston headquarters to gather information from him in order to allow WCP to provide legal advice to the Special Committee of Enron's Board of Directors. Jacks C. Nickens of Clements, O'Neill, Pierce, Nickens & Wilson, L.L.P., was present and represented Causey.

This memorandum has been prepared by counsel in anticipation of possible litigation arising from a Securities and Exchange Commission ("SEC") investigation and any parallel or related proceedings. This memorandum incorporates the mental impressions, analyses and opinions of counsel. As such, this memorandum is intended solely to assist counsel in providing legal representation and advice to the Special Committee of Enron's Board of Directors, and is not intended to provide a substantially verbatim recital of Causey's statements. The interview was based on WCP's understanding of the facts and review of documents as of the date of the interview. Furthermore, Causey has not reviewed this memorandum. Therefore, this memorandum may contain inaccuracies and the following discussion of certain events may be incomplete or lack context.

At the outset, Brenner explained that WCP represented the Special Committee appointed by the Board to investigate certain transactions between Enron and related parties, and we were speaking to him as part of that investigation. Brenner stated that we did not represent Enron's officers or employees, including him, that, in our view, the conversation was privileged but it was the Special Committee's (or Enron's) privilege, and that the Special Committee or Enron could decide what to do with the privilege, not him. Brenner stated that Causey should anticipate that anything he told us would be conveyed to the Special Committee, and that the information could be communicated to others, such as the Board, others associated with Enron, and the Government.

Brenner stated that, as Causey knew, there was an SEC investigation, that the company was cooperating fully with the SEC, and that there was a reasonable possibility that information he provided will be conveyed to them. Brenner informed Causey that we did not know whether the information will be communicated to others in addition to the SEC and that two or three United States Attorney's Offices ("USAO") have expressed at least preliminary interest in the

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matter. They included the USAO from the Southern District of New York, the Central District of California (Los Angeles), and Houston.

### **Introduction**

Brenner stated that we were going to discuss two principal subjects with Causey today. First, we were going to discuss the development of LJM, the development of the process and procedure for reviewing and approving transactions between Enron and LJM, and what information was reported to the Board. Second, we were going to discuss the company's approach to public disclosure of LJM transactions in the company's public filings. At some later point, we would discuss the specific transactions with him.

### **Causey's Background**

*Pre-Enron.* Causey graduated from the University of Texas in the Spring of 1982. From June 1982 until February 1991, he worked at Arthur Andersen, rising to the manager level. Beginning in 1986, while at Arthur Andersen, he spent about eighty percent of his time auditing Enron. He had a couple of opportunities to join Enron during that time, but did not take them.

*Enron.* In 1991, George Posey, who started Enron Gas Services ("EGS"), approached Causey and offered him a position as assistant controller at EGS. Causey accepted and started at Enron in March 1991.

In approximately 1992, Causey became vice-president of EGS reporting to Posey, who reported to Jeff Skilling. Causey set up the accounting organization and back office, which consisted of trading support and operations.

In 1996, after EGS had become ECT, Skilling asked Causey to run the ECT treasury group. Causey replaced Andrew Fastow, who went to run the retail business. Six months later, Skilling asked Fastow to run the ECT treasury group again, and Causey ran the retail business and set up the EES retail assessment and control group.

In December 1996, Rich Kinder left Enron, and Skilling was promoted to assume Kinder's role. Skilling asked Causey to be the Senior Vice-President and Chief Accounting Officer ("CAO"), and Causey accepted. Causey reported to Ed Segner for about one year, and then he reported to Skilling, Ken Lay, and, at times, Joe Sutton. Causey had replaced Jack Thompkins, who had left. For about one year after Thompkins left and until Causey assumed the role of CAO, there was no CAO, and Segner covered the position.

*Arthur Andersen.* There were a number of Arthur Andersen audit partners when Causey became CAO. Steve Goddard was just finishing up his final year. Goddard remained the advisory partner, and Dave Duncan became the engagement partner.

## LJM1

*LJM1's Purpose.* Causey first became aware of LJM or the idea of LJM when Fastow approached him about three months before LJM1 was formed (June 1999). Fastow approached Causey about the idea of Fastow forming a private equity fund. Causey did not remember the specifics of their conversation. The concept was that LJM1 would be a source of available capital. Enron would not be required to use LJM1's capital. No special arrangements were made to transact with LJM1. Causey thought the idea of LJM1 was ok, that it was doable, that it was probably unusual, but from an accounting standpoint it worked. Causey's concern and role was whether it worked from an accounting point of view.

*Enron Participants.* Causey did not remember everyone at Enron who was involved with the initial LJM1 proposal. Ben Glisan was in the accounting organization and may have been involved. Causey was sure that he, Causey, had worked with accounting people on the concept; it was not a hard accounting question. There were related-party disclosure issues, and Fastow raised those issues. Causey could not recall whether he, Causey, had discussed the issues with Skilling. At some point, Fastow discussed LJM1 with Skilling. LJM1 was raised with the Board, explained to the Board, and Arthur Andersen was involved.

*Accounting.* Causey said that the accounting issue was control. Because Fastow was a related party, Causey relied on Arthur Andersen. Although it is not clear to this day that they had to do it this way, for purposes of analyzing the control issue, Arthur Andersen advised them to assume that everywhere Fastow was in the deal it would be the same as if Enron played that role, and based on that assumption make sure the structure worked. That was what Causey understood Andersen to recommend. Causey was concerned about control in terms of consolidation, and it was the only accounting issue that Causey was concerned about. Causey made sure that Arthur Andersen was satisfied, and he reported to the Finance Committee that LJM1 could meet structure and accounting requirements for deconsolidation.

*Disclosure.* The disclosure of the transactions was discussed. Setting up LJM1 was not considered a disclosure issue. Causey had in mind disclosure of transactions, not establishing the entity. The Rhythms NetConnections hedge was contemplated to be the first transaction with LJM1. Causey thought that LJM1 and the Rhythms NetConnections hedge were presented to the Board simultaneously. There was no discussion at that point about disclosure in connection with the initiation of the transaction; if there was, the discussion would have been in terms of disclosing the gains or losses to Enron.

*Presentations to the Board.* Causey gave a presentation to the Finance Committee about LJM1. Fastow also gave a presentation, but Causey was not present during that presentation. Causey did not remember when the full Board learned about LJM1. Causey was not selling it to the Board; he was just reporting on accounting issues. Arthur Andersen was not present during Causey's presentation. Causey communicated Arthur Andersen's views to the Finance Committee. Causey told the Finance Committee that Arthur Andersen had looked at the deal, that Arthur Andersen found that the transaction satisfied the accounting requirements, and that Arthur Andersen found that it would require disclosure but that it worked.

### June 28, 1999 Project LJM Board Presentation

Brenner showed Causey a ten-page document entitled Project LJM Board Presentation and dated June 28, 1999. Brenner showed each page of the document to Causey listing the various topics discussed during the presentation: the economics of the Enron stock positions, the current Enron stock positions of little value to Enron, a summary of the transaction, the direct value of the transaction to Enron, the benefits to Enron, a description of Fastow's involvement, a list of key elements of the transaction to be approved, the transaction structure, and the eight steps to complete the transaction.

*GP Commits \$1 Million.* Causey did not remember what he thought the first bullet-point, "General Partner commits \$1 million," under the heading "A. Fastow Involvement" meant in June 1999. As he looked at it today, it looked like the General Partner was Fastow. Causey did not remember any reaction by the Board to this bullet-point.

*Benefit to Fastow.* Brenner directed Causey's attention to the second bullet-point in bold and underlined under the heading "A. Fastow Involvement," stating that the "General Partner will not receive any current or future (appreciated) value of ENE stock." Causey said that Fastow repeated over and over again and told the committee that he was not going to benefit from any upside on Enron stock. The point of Fastow not benefiting from Enron stock was important to Causey, but Causey did not look at every angle of it. Causey could or could not have a personal view as to what this statement meant, but he did not get into it at the time. It was communicated to the Board that Fastow would not obtain any "pecuniary interest" in Enron stock, which Causey interpreted to mean that Fastow would not benefit from any appreciation in Enron stock. He did not know whether this item was discussed more than any other item. Causey's understanding was that Fastow would not gain any benefit from Enron stock transferred to LJM1. Causey speculated that if LJM made money on the Rhythms puts (as opposed to making money from appreciation in Enron stock) then perhaps Fastow personally would be able to make money on the transaction. Causey repeated that his concern was not with respect to whether Fastow was making money; rather, he was concerned about accounting issues once the transaction was structured. He did not remember whether there was any focus on Fastow's compensation or what Fastow might earn from his participation in LJM, but he speculated that there must have been some. Causey did not know whether the reference to Fastow not receiving any appreciated value of Enron stock was intended as a general statement or applied only to the Rhythms transaction. He acknowledged that the statement (if intended to be general) would be relevant to the Raptor transactions.

*LJM1 Transactions.* Causey did not remember anything regarding the presentation to the Finance Committee or any Board concerns. The Finance Committee received the information about all Enron investments. He would characterize the LJM1 investments as "pretty standard." While the investments were not standard because of the related-party aspect, the Board approached it like any other transaction. The Board made sure that the company wanted to enter into these transactions, and the Board took the accounting and legal issues into consideration like

any other transaction. It was fair to say that no special scrutiny was given to the LJM1 transactions.

*Skilling.* Causey said that Skilling would have been present during the LJM1 presentation. Skilling often commented on the deals. Causey did not remember any comments from Skilling on the Rhythms NetConnections deal or any communications with Skilling at this point in the history of LJM.

#### **Post-June 1999 LJM1 Transactions**

Causey did not remember whether any special practices or procedures were implemented for dealing with LJM1. After reviewing the June 28, 1999 LJM1 Board presentation, Causey did not remember whether the LJM1 Rhythms transaction was thought of as a "one-off" deal or not. Clearly it did not become a "one-off" deal, because LJM2 came into existence. However, Causey said that LJM2 was also "murky" in his mind.

Causey did not remember the purchase by LJM1 of the Osprey certificates, and he did not know whether he knew about it at the time. It was not typical for him to be aware of an Osprey purchase. Osprey was a SPE that held Whitewing. Glisan and Duncan were the two people that worked most on the deal, and they focused on structuring the deal. Glisan would have been the "accounting structuring" person from the finance group, and he reported indirectly to Causey. Causey monitored the process.

Causey said that the LJM1/Cuiaba deal was a sale by Enron. Typically, DASHs were used with related-party transactions where Enron was buying capital. Causey was not sure whether a review process was created using DASHs for sales. He recalled that, in regard to Cuiaba, a South American business unit wanted to sell a piece of the plant. Causey did not remember whether he knew LJM1 wanted to buy it, and he did not remember being asked to play a role in the purchase. He also did not remember if the South American business unit came to him with respect to selling to Fastow, and he did not recall whether the Finance Committee was told about the Osprey and Cuiaba purchases.

#### **LJM2**

Causey did not remember any specifics with respect to the proposal for LJM2. He recalled that LJM1 seemed to work so Fastow initiated the idea of LJM2. Structuring the partnership agreement was relatively routine. Arthur Andersen had some improvements with respect to the control question, such as an LJM2 investment committee and the percentage of outside limited partners that had to approve things. Duncan communicated directly with Fastow, and they worked a lot together directly on that, but structuring LJM2 was "not a big event."

Fastow was going to have a broader group of partners and raise capital. However, Fastow never said why he wanted to create LJM2. LJM1 was structured as one transaction while LJM2 was structured because there could be things in the future that Enron needed capital for. LJM2 was more open-ended.

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No differences stood out between the presentations of LJM1 and LJM2 to the Board. Causey was sure that there were differences, but he would characterize LJM2 as another typical finance transaction.

### **LJM2 October 11, 1999 Presentation to the Board**

Brenner showed Causey a four-page document that was presented to the Finance Committee on October 11, 1999. Brenner showed Causey each page of the document discussing an update of LJM1, Enron's private equity strategy, the rationale for the LJM2 structure, and a summary of LJM2.

*No Forward Contracts to LJM2.* Brenner directed Causey's attention to the third-bullet point on page four under the heading "LJM2 Summary," which listed four major differences from LJM1, including "[n]o forward contracts / value from Enron contributed." Causey said that the statement that no forward contracts were contributed from Enron tied into the fact that Enron shares had been transferred to LJM1, but there was no first transaction with LJM2 yet. Causey did not focus at that time on whether the prohibition on forward contracts was the rule with regard to LJM2, and he would read it now as a reference to the fact that there was no proposed transaction at the time that would involve contributing such contracts. Causey did not recall any discussion of the issue. It was obvious during the LJM1 transaction that Enron contributed Enron shares, but at this point there was no deal with LJM2.

*No Business Relationships with LJM2 at Close.* Brenner directed Causey's attention to the second difference listed under the third bullet-point regarding major differences between LJM1 and LJM2, stating that there are "[n]o business relationships between Enron and LJM2 at close." Reading that today, Causey would interpret that to mean that there were no proposed deals at the time of closing LJM2.

*Causey to Approve Transactions.* Brenner directed Causey's attention to the fourth bullet-point concerning controls, which stated "R. Causey to approve all transactions between Enron and LJM1/LJM2." Causey stated that the only thing he knows is that there was never a lot of direction or assistance about what Causey should do with respect to approvals. He did not recall anything said to the Board about the control process or any questions from the Board, but there could have been.

*No Compensation From Enron to Fastow.* Brenner directed Causey's attention to the fifth bullet-point concerning compensation and disclosure. The bullet-point lists three points: "No compensation from Enron to A. Fastow"; "LJM2 has typical private equity fund fees and promote"; and "No related party disclosure expected at close. Related party disclosures specific to asset sales probably required." Causey said that, reading it today, the intent was to prevent Enron from compensating Fastow for his LJM2 activities. The statements do not suggest that Fastow would not receive compensation from LJM2 as a result of the transactions. Causey did not think that anyone in the room thought that Fastow would not earn anything. It was just that Fastow would not get any additional benefit from Enron because of the LJM2 partnership. Causey did not know whether the Finance Committee was told any additional information.

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*Arthur Andersen.* Brenner directed Causey's attention to the handwritten remark at the bottom of page four, which stated "Blake Has AA reviewed Causey yes, they're fine w/ it." Causey stated that he told Blake that Andersen believed LJM2 worked structurally. Only the concept of LJM2, and not any transaction, was discussed. He did not recall any particular transaction "teed up to go."

#### **Audit and Compliance Committee**

The Audit Committee clearly decided at some point that they would take a periodic look back at the LJM transactions. Brenner directed Causey's attention to the October 11-12, 1999 Board minutes stating that "the Audit and Compliance Committee would, on an annual basis, review all transactions completed within the past year and make any recommendations they deemed appropriate." Causey said there was no discussion of what the review would entail, just the idea was mentioned.

#### **Causey's Role in Approval Process re LJM2**

*Causey's General Role.* Causey was not sure how his role in the approval process came about. He did not think he received much direction from anybody. He described his view of his role. Someone would bring him the transaction, and there was a negotiation. No one forced Enron to use LJM2. Causey told people who asked that the toughest negotiations involved the internal ones at Enron. It was usually evident that there were strenuous negotiations, and he looked generally to see that that occurred. He also looked generally at the accounting and sometimes had a direct role in the negotiations, as with Raptor.

*Negotiations.* Causey would watch people's behavior to determine whether the negotiations were real and make sure that it did not appear that Fastow was "stepping on" a low-level employee. While that could have happened without coming to his attention, he looked to see if it happened. He obtained information about the negotiations by generally talking to those involved, and typically there was an accounting person involved. There was no standard way that things came to his attention. Causey said that the "completeness" of his review of the negotiations is probably an issue. Sometimes Causey talked to the lawyers, the finance people, and/or Fastow about the deals. There was no consistent method. Causey could not say that he knew about every LJM deal. Sometimes he learned about LJM deals before they closed, because someone would tell him about them. In addition, some people assumed that small LJM transactions did not require Causey's attention, which might account for why he did not know about all LJM deals.

Causey did not go out and seek to find LJM deals that were not presented to him. When LJM deals came to his attention, he might have done something affirmatively, but in general the information came to him, he would process it, and then follow-up where necessary. In most cases, it was "pretty easy" to determine that the negotiations were real. The business units were not excited that Fastow was in LJM, the business units had their own goals, and the deals that they did would affect how they were viewed by the company. Causey relied on this general concept - that the business units had their own interests to make sure the deals were real - as opposed to looking at individual deals. He was in touch generally with the accounting

transaction support people on LJM deals, and he relied on their reports. Some of the accounting people reported to Rodney Faldyn, and others reported to an accounting person in a business unit that reported indirectly to Causey. Causey did not remember any problems relating to whether the negotiations were real or someone was "stepped on" that came to his attention. Causey stated that accounting people and lawyers were involved in the LJM deals.

*Fastow During Negotiations.* Causey did not remember any specifics about whether Fastow injected himself into the LJM deals and pressured Enron people. Fastow was generally known for that kind of behavior when dealing with banks on behalf of Enron, but Causey did not recall any reports to him that Fastow was pressuring people on any LJM deal. Issues may have floated up to him, and Causey may have had to speak to Fastow about them. Such issues were probably raised around Raptor when Causey discussed with Fastow what Fastow was thinking, because Causey was negotiating to some extent with Fastow on Raptor. The issues that generally came to Causey's attention were about the process, such as Fastow not getting back to the Enron staff about certain matters.

Causey did not remember any specific instances of Fastow putting pressure on Enron employees, pushing too hard, or making it difficult on Enron employees. Causey did not think that he had heard of any general discussions that Fastow had pressured people or caused people problems, but Causey said that he had a hard time separating Fastow's known conduct for working with banks and Fastow's conduct relating to LJM deals. Causey did not think that Kopper had negotiated any LJM deals for Enron, and Causey did not remember any instances of whether Kopper pressured or pushed Enron employees or had others do that for Kopper. While he did not remember any specifics, Causey said that Enron people would call and say that the LJM people were bogging down or not moving fast enough on the deal, but these complaints had to do with logistics. Causey repeated that he could not recall anyone coming to him to complain about Fastow pressuring or pushing them, and Causey did not think it happened.

### **Approval Process**

*Buy's Role.* Causey did not recall specifically what Rick Buy's role was in the approval process other than to review the transactions. Causey said that he and Buy had communicated generally about the transactions, but he did not remember them dividing up the approval responsibilities. It was "somewhat ad hoc." Buy looked at risk while Causey focused on accounting. Causey did not remember Buy or anyone else expressing any concerns regarding the process.

*Skilling's Role.* Causey was not aware of whether Skilling reviewed or signed off on the LJM transactions. By default, Causey was on the Enron side of Raptor. Skilling was aware of the Raptor transactions, but Causey did not know if Skilling was aware of other transactions.

*Causey's Role.* Causey was not aware of any LJM deal being rejected during the approval process. Causey had accounting questions on deals, but he did not remember any that were negated and does not believe there were any negated. Causey did not make an assessment of the fairness of the deals as part of his role. Either Buy or the business units made that

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assessment. Causey and others viewed it as a naturally occurring process that the business units would make sure that the deals were fair because they would be interested in fairness.

*Approval Sheets.* Causey said that eventually as a matter of routine he would receive LJM approval sheets for every transaction. The approval sheets would either precede or follow transactions. Causey generally gave them to Faldyn to review and made sure that Faldyn and Faldyn's team approved of the transactions before he, Causey, signed them. Faldyn may have initialed some of the forms. The approval sheets memorialized the transactions, but were not the driving force behind Causey's review. Causey sometimes reviewed a deal while it was occurring but did not sign an approval sheet until later. He also could not say that he looked at all the deals. Sefton and Mintz played roles in bringing LJM deals to his attention. Mintz did a better job than Sefton creating a process to make that work; Mintz was more meticulous than Sefton in getting the process done. Causey repeated that lawyers and accounting people were involved in the LJM deals.

*Causey's Awareness of Deals.* Causey was sure that there were LJM deals that he did not know about at the time that they occurred, but he could not identify them specifically. Causey believes this is true based on his review of the transactions described in the 8-K, particularly the many repurchases from LJM. He knew about the repurchase relating to Cuiaba, and he was aware of the SPE purchase of dark fiber, but believed Enron was not going to have an economic interest in the latter transaction. Those were the two deals that he knows he was aware of, but he would not say that there are others that he is not aware of. Causey would have wanted repurchases brought to his attention. Anyone who asked knew that Causey was not fond of repurchases. Causey said that he has no reason to believe today that deals were not brought to his attention intentionally. The deals could be pretty fast moving, and Enron is a pretty independent place. People could have moved forward without realizing that Causey wanted to know about LJM deals.

#### **Causey's February 2000 Presentation to the Audit and Compliance Committee**

Causey did not recall the specifics of his presentation to the Audit Committee in 2000. He never discussed with Dr. Bob Jaedicke what the Audit Committee wanted from him. Causey endeavored, and certainly did in the 2001 presentation, to list the transactions as they were presented to the Finance Committee. Brenner showed Causey an excerpt from the minutes of the February 7, 2000 Audit and Compliance Committee, stating that Dr. Jaedicke "called upon Mr. Causey for the report" and "Mr. Causey outlined the transactions that had been completed during the year including a description and the total amount of each transaction." Causey said that the report would have been something that Causey presented himself. He did not remember where the information came from. His staff would often help him prepare, and he assumed that is what happened here. The minutes, however, did not refresh his recollection. Brenner showed Causey the list of LJM transactions in 1999 that was presented to the Audit Committee. Causey did not know why some 1999 Enron transactions with LJM1 were not on the list, such as Cuiaba, the Osprey note repurchase, and a \$38 million loan from a Whitewing subsidiary to LJM. Causey would have endeavored to be complete, but obviously (looking at it today) the list was not. Causey did not remember the \$38 million loan to LJM, but thought he became aware of it later. There were a number of transactions that Whitewing was trying to do. It was not an "overly big

deal" – the principal and interest were repaid. In preparing his presentation to the Audit Committee, Causey relied on what he saw to become comfortable that the transactions were negotiated at arms-length

### **Changes in Approval Process**

When Mintz became involved, the process became better organized, and Causey felt better about it. Even then the process was not formal, but the biggest single thing was that Mintz tried to do a better job. He tightened up the approval sheet process, and, with his help, there were better reports to the Audit and Finance Committees.

*Sefton's June 19, 2000 LJM Approval Sheet Memo.* Brenner showed Causey a June 19, 2000 memorandum from Sefton to a group of thirty-three Enron employees, including Causey, reminding everyone of the approval process for transactions between Enron and LJM and attaching a copy of the approval form. Causey stated that it was fair to infer from this memo that Sefton was sending out this reminder, because the process was not going as well as it should have been. This was probably Sefton's attempt to do a better job. Fastow or Sefton came up with the concept of approval sheets, and it seemed like a good idea to Causey.

*Arthur Andersen.* Arthur Andersen generally made its views known in quarterly Audit and Compliance Committee meetings. Often, if the related-party transactions during the prior quarter were significant, Causey and Arthur Andersen would give kind of a joint report. Brenner directed Causey's attention to the minutes of the August 7, 2000 Audit and Compliance Committee meeting, stating that "Mr. Duncan discussed AA's selected observations regarding . . . the Company's transactions with the LJM investment vehicles . . ." Causey said that, if we went back and looked, we would see more references to Arthur Andersen's observations. Duncan "made a pass" at the transactions and then Causey commented on it. Typically Duncan might say to the Audit Committee that Duncan looked at the transactions, the Committee might ask him whether he was happy with them, and Duncan would say yes.

Duncan and Causey made it clear routinely that they were in gray areas on some of the accounting issues, and that other people might have different views. Beyond that cautionary statement, they did not say anything negative. Causey was certain that the cautionary statement was made regarding the Raptor transactions, because there were many difficult accounting questions, and Raptor would have warranted the cautionary statement. Conceptually, not from an accounting viewpoint but from a disclosure and public relations viewpoint, Duncan asked Causey privately whether the Board really wanted to do the LJM transactions. Duncan had not and was not expressing concern about the accounting or the adequacy of the disclosure. Instead, Duncan was concerned about what others might think of these transactions.

### **Fastow's Compensation From LJM**

*McMahon.* Causey said that McMahon expressed some frustration about Fastow's compensation from LJM. Once, maybe twice, McMahon went to Causey and asked whether Causey had done the math on what Fastow was making. Causey would let McMahon vent and then let it go. Fastow's compensation was not Causey's concern, and Causey viewed it as

something that Fastow would have to work out with Fastow's LJM partners. McMahon communicated his concerns that Fastow would be making a lot of money, but McMahon did not say whether he was concerned about fairness or something else.

*Skilling.* Besides McMahon, no one else expressed concerns to Causey about Fastow's compensation, other than one occasion when Causey reviewed with Skilling the Raptors and the way the transactions were going to work. During that conversation, Skilling told Causey "let's be sure that there wasn't too much money made" or some off-hand comment along those lines. No one else asked Causey about Fastow's compensation, and Causey had not heard that anyone else asked about it. The closest thing to questions about Fastow's compensation was the discussion by Mintz, Fastow, and Causey of the compensation that LJM made in general at an Audit Committee meeting in 2001. Winokur may have asked Fastow a question about it. Neither Causey, Duncan, nor Arthur Andersen raised the issue with the Audit Committee, and neither Duncan nor Arthur Andersen raised it with Causey.

#### **October 6, 2000 Finance Committee Meeting**

*LJM3.* Causey recalled that Fastow had pitched LJM3, but that it never happened. Causey remembered hearing Fastow describe it at a Finance Committee meeting, and Fastow may have discussed it with Causey before that meeting. Causey thought LJM3 was approved, and that it was needed for more capital, but that no transactions ever took place.

*October 6, 2000 Finance Committee Meeting.* Brenner showed Causey a six-page presentation on LJM3 at the October 6, 2000 Finance Committee meeting. Brenner reviewed each page with Causey describing the topics on private equity strategy, the rationale for the LJM structure, a summary of LJM1 and LJM2, a discussion of the conflicts of interest, and LJM3.

*Conflicts of Interest.* Brenner directed Causey's attention to page five and the discussion of the conflicts of interest. With respect to the first bullet-point concerning "LJM creat[ing] a conflict of interest for EVP/CFO of Enron" and the statement that Fastow "[n]egotiates investments in Enron transactions/business for LJM," Causey said that Fastow negotiated for LJM from time to time. Sometimes, as in Raptor, issues would surface from Glisan and Fastow's people at LJM and would be raised at Causey's and Fastow's level. Fastow also negotiated the Rhythms deal. With respect to the other deals, Fastow could have been involved, but Causey could not think of another deal where Fastow was involved. Causey did not know if he would have known that Fastow was involved in the negotiations.

*Approval of Transactions.* Brenner directed Causey's attention to the second bullet-point containing the statement that "R. Causey/R. Buy/J. Skilling approve all Enron-LJM transactions." Causey did not know why it was stated that Skilling would also approve all Enron-LJM transactions, but Causey did not believe that Skilling approved all the transactions. Mintz endeavored to get Skilling to sign off on all the transactions. Causey could not recall Skilling ever saying that he was not going to approve of a transaction.

*Fastow's Economic Interest.* Brenner directed Causey's attention to another statement under the second-bullet point stating that the conflict was largely mitigated: "Review

of A. Fastow's economic interest in Enron and LJM presented to J. Skilling." Causey did not know anything about the review of Fastow's economic interest, and he did not know whether it occurred. Causey did not recall whether anyone reported to the Finance Committee about Fastow's economic interest. Causey did not remember any discussion by Skilling that involved what Fastow might or might not have received from LJM. His only recollection is the off-hand remark that Skilling made, suggesting that Fastow should not make too much money.

*Compensation Committee.* Brenner directed Causey's attention to the references in the minutes of the October 6, 2000 Finance Committee meeting that "Mr. Fastow discussed the other investors in the LJM funds," that "Mr. Blake proposed that the Finance Committee also review transactions between the Company and the LJM funds on a quarterly basis," and that "Mr. Winokur proposed that the Compensation and Management Development Committee review the compensation received by Mr. Fastow from the LJM funds and the Company." Causey stated that he never prepared anything for the Compensation Committee about Fastow's compensation from LJM funds or the company. There was a time when Causey was in charge of the Human Relations department and thus attended Compensation Committee meetings, but Causey believes that he had this role prior to the period when LJM entered into transactions with Enron.

#### **February 12, 2001 Audit and Compliance Committee Meeting**

Brenner showed Causey the agenda for the February 12, 2001 Audit and Compliance Committee Meeting and the first page of a three-page attachment entitled "Related Party Transactions - LJM 2000 Internal Policies and Procedures." The fourth item on the agenda states: "Review of LJM procedures and transactions completed in 2000 - Mr. Causey."

Causey thought that Mintz prepared the summary of LJM policies and procedures. Causey looked at them at the time to make sure that he was comfortable with them.

Causey stated that the handwritten note at the top of "Related Party Transactions" attachment, stating "Causey Will discuss specific financial terms w/ Finance Comm," refers to the list of transactions that he had discussed previously.

Brenner directed Causey's attention to the checklist of additional controls developed with respect to the related-party transactions under the heading "Supplemental Efforts." The reference to the statement that "LJM senior professionals do not ever negotiate on behalf of Enron" would refer to the people working with Fastow, such as Kopper or perhaps Yaeger, although Causey was not sure she was senior enough to be included. These people did not negotiate on behalf of Enron. Causey did not know whether the second bullet-point, stating that "Enron professionals negotiating with LJM report to senior Enron professionals apart from Andrew Fastow," meant that anyone negotiating on behalf of Enron did not report to Fastow. A finance person who might be involved in negotiations on behalf of Enron might report to Ken Rice who reported indirectly to Fastow. Asked whether anyone directly reported to Fastow but also negotiated on behalf of Enron, Causey responded that, with respect to Raptor, Fastow was careful about not having any person reporting directly to him negotiating on behalf of Enron. Although the Board was told that no one reporting to Fastow would negotiate on behalf of Enron

even though Glisan had participated in negotiations for Enron. Causey stated that he, Causey, and not Glisan had negotiated the key points in the Raptor transactions. Moreover, Glisan had presented a detailed review of the Raptor transactions to the Finance Committee, and it should have been obvious to anyone on the Finance Committee from this review that Glisan was involved in the negotiations. Causey did not think that it would come as a surprise to anyone who was present for Glisan's review that Glisan was involved in Raptor. Causey did not know the extent of Glisan's participation in the negotiations on behalf of Enron in other LJM deals.

Brenner showed Causey the LJM approval sheet for Fishtail that showed that Barry Schnapper, who reported to Fastow, negotiated the transaction on behalf of Enron. Causey said this was an interesting deal. Fishtail involved Pulp and Paper, a separate business unit. Bill Brown was a finance person who reported to Mintz. There was an understanding that a corporate finance person would help out here and there on deals. In that context, Schnapper must have helped on the Fishtail deal. Schnapper's involvement did not necessarily surprise him. The finance group worked with lots of people on lots of deals. Their involvement in the LJM deals did not totally contravene what Causey presented to the Committee. Causey did not go back through all of the LJM deals and review the LJM approval sheets. Mintz created the format, and Causey thought and still does think that they are a fair representation of what was going on. Causey did not see the involvement of the corporate finance people as a key point. The whole process involved other people and business units that did not think the corporate finance function was a key factor in making the deal work. Causey was sure that there were discussions with the Finance Committee about the supplemental controls, but he did not remember what was discussed.

Causey and Mintz prepared a list of LJM transactions for the Audit and Finance Committee meetings. Causey did not recall the list that was sent out and whether it included the economics of the transactions, such as a broad description of the investment amounts. Causey obtained descriptions from people who generally helped him pull information together. Fastow was also looking at these issues and was aware of the presentation, and Fastow helped Causey pull together the information to some degree. But, Causey relied principally on his staff (most likely Faldyn) and Mintz.

Brenner directed Causey's attention to the second page of the attachment to the February 12, 2001 Audit and Compliance Committee agenda. This page listed the LJM investment 2000 activity with Enron. Causey acknowledged that this was the list of transactions that he pulled together with the help of Mintz and Fastow. The Audit Committee was not informed of any information other than what appears on the attachment. Causey probably did not go through each investment one by one, but instead presented them collectively to the Audit Committee.

Brenner directed Causey's attention to a document with the same title, "LJM Investment 2000 Activity With Enron," but with more detail and handwritten notes. Causey said that he probably used this document while giving the Audit Committee presentation and a parallel presentation to the Finance Committee. The handwritten notes are Causey's. The presentation was coordinated by Causey and Fastow's team. Fastow had a hand in preparing the presentation. More questions were directed to Fastow than Causey. In the Finance Committee presentation, either Causey or Fastow discussed the return to LJM, which Causey described as somewhat of a

joint effort. Causey did not remember whether any person on the Audit Committee or Finance Committee came out against LJM's investment activities or asked Fastow how much Fastow was making. Causey speculated that perhaps the Compensation Committee minutes referenced how much Fastow was making or that Fastow's compensation was reviewed at the October 2001 Audit Committee meeting. With regard to Causey's handwritten note in reference to Rhythms, stating "Andy got no interest in this," Causey said that it would surprise him if Fastow received any interest in the Rhythms transaction, and Causey may well have told the committee that Fastow had no interest in the transaction. Fastow told Causey privately that he did not get anything out of the deal. Fastow may have said it in a way that Causey interpreted more broadly than Fastow intended, but, of all things, Fastow receiving interest from Rhythms would surprise him the most thus far. Fastow was present for the Finance Committee meeting. Causey did not remember whether Skilling was present, but Skilling was typically there.

#### **Mintz' March 8, 2001 Memo to Buy and Causey**

Brenner showed Causey Mintz' March 8, 2001 memorandum to Buy and Causey regarding the LJM approval process. Causey said that he recalled the memorandum generally, and stated that it was part of Mintz' effort to try to improve the process. Nothing in particular triggered Mintz' memo, but two things probably coincided with the memo. First, Mintz was working on the 2001 proxy statement. Second, Mintz and Causey had a couple of discussions when Mintz first became involved about LJM and Mintz' desire to improve the process.

Mintz may have approached Causey in the fall 2000 about the process. They had a couple of conversations. Causey did not remember any specifics. In general, Mintz said that he wanted to do certain things, and Causey was supportive and had no reason not to be supportive.

#### **Communications Between Enron and SEC Staff Regarding SPEs**

Causey did not recall any discussions with the SEC Staff regarding SPEs. There was one telephone conversation with the Staff about a Marlin repurchase. The Staff called – Scott Blakely or Bleakly – and asked whether the transaction should be consolidated. Causey thought about it and told the Staff that the transaction should not be consolidated and explained why. The Staff said that they would get back to Causey, but they never did. Arthur Andersen advised Causey not to circle back to the Staff and, instead, to wait for the Staff to get back to him. Causey did not prepare any documents memorializing his conversation with the Staff. Duncan talked to John Stewart about it, and they said that the Staff would contact Causey again if they disagreed with Causey's conclusion.

#### **The Matrix**

Causey said that there are no documents that explain Enron's "matrix" organization very well. Causey has lists of accounting people who report directly or indirectly to him. Fastow probably tried to put something together to show the matrix. Except for Global Accounting, the organization charts are not good.

### Accounting Meetings

Enron's accountants meet quarterly. Approximately 150 accounting people from the manager level and above hold an annual meeting, and approximately 80 accounting people from the director level and above also hold meetings. In addition, about one year ago, there was a meeting at a Houston hotel for everyone in accounting. Finally, Faldyn had regular meetings with his transaction team and open meetings on a variety of topics, such as FASB 133.

Causey did not know whether Fastow held any meetings. Fastow was invited as a guest speaker to an accounting meeting, and Fastow attended a tax meeting.

There were two or three meetings offsite that involved detailed discussions of technical issues, and they talked about Whitewing and other SPEs. Presentations of these meetings might exist, and we should ask Faldyn for them.

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